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1 UNITED STATES DISTRICT COURT

2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 -----x  
SERENDIP LLC & WENDY CARLOS,

4 Plaintiffs,

5 -against-

6 WARNER BROS. ENTERTAINMENT INC.,

7 Defendant.

8 Case No. CV08-07739

9 -----x  
10 One Time Warner Center  
11 New York, New York

12 September 16, 2009  
13 10:00 a.m.

14  
15 Videotaped deposition of ANNEMARIE  
16 FRANKLIN, held at the offices of Time Warner,  
17 Inc., pursuant to notice, before Barbara Driscoll,  
18 a Notary Public of the State of New York.

19  
20  
21  
22  
23 ELLEN GRAUER COURT REPORTING CO. LLC  
24 126 East 56th Street, Fifth Floor  
New York, New York 10022  
212-750-6434  
25 Ref: 91146

1 FRANKLIN

2 than the presumption that you claim under the  
3 copyright act?

4 A. No, I guess not -- well, I have to  
5 amend that answer.

6 Other than the fact that it impinges  
7 upon our ability to license music otherwise, if  
8 people then think that Warner Brothers owns it or  
9 can use it for nothing, so that is the extra harm  
10 that happens.

11 Q. Since 1999 or 2000 when you learned  
12 that there was a home video version of Clockwork  
13 Orange, have you done any research to determine  
14 when Clockwork Orange was first released on video  
15 -- home video?

16 A. Yes.

17 Q. What did that research tell you?

18 A. I think it was sometime in the '80's.

19 Q. Since the 1980's, has Serendip licensed  
20 any of the music for -- that also appears in  
21 Clockwork Orange?

22 A. Yes.

23 Q. In fact, the Clockwork Orange music is  
24 the music for which you received the most license  
25 requests, correct?

1 FRANKLIN

2 A. Yes.

3 Q. Was anybody with him?

4 A. His son.

5 Q. That is Manuel?

6 A. Manuel.

7 Q. How long was he there?

8 A. I don't remember.

9 Q. Did you on that January 2000 date have  
10 any discussions with Mr. Harlan regarding the  
11 documentary, Life in Pictures?

12 MR. COHN: I assume what you're talking  
13 about is substantive conversations as opposed  
14 to, this is a nice project and it is  
15 interesting kind of stuff. So if you can  
16 clarify that that is what you're talking  
17 about, it becomes much less formidable in  
18 terms of recollecting everything that was ever  
19 said.

20 MS. BURROW: I would actually like to  
21 know her recollection of what was said at this  
22 point. I appreciate your comments.

23 MR. COHN: Then your real question is,  
24 at that time who said what to whom?

25 MS. BURROW: I am fine with that

1 FRANKLIN

2 question.

3 Q. The first question was actually a  
4 yes/no; did you have any discussions? The next  
5 question was, who said what to whom?

6 A. Obviously, he and I talked. However,  
7 the purpose of that question was to do the video  
8 taping of Wendy Carlos and that is what actually  
9 took place.

10 Q. Did he tell you there would be clips  
11 from movies in the documentary?

12 A. No.

13 Q. At the time, this January 2000 time,  
14 had you ever seen documentaries about the lives of  
15 film makers?

16 A. I have seen documentaries.

17 Q. Have those included clips of movies?

18 A. Possibly.

19 Q. Other than this January 2000  
20 conversation with Mr. Harlan, did you have any  
21 other conversations with Mr. Harlan about the  
22 documentary Life in Pictures?

23 A. Yes.

24 Q. When was that?

25 A. Well, he came back in March and did a

1 FRANKLIN

2 second session.

3 Q. About two months after the first?

4 A. That is what I believe -- that is my  
5 recollection.

6 Q. Was his son Manuel with him?

7 A. Yes -- yeah, he must have been.

8 Q. Anybody else that you recall?

9 A. No.

10 Q. What did you discuss with Mr. Harlan in  
11 March 2000 regarding the documentary?

12 A. Only -- I don't remember actually. We  
13 didn't discuss the documentary in -- at that time,  
14 we weren't discussing the documentary. It was  
15 only dealing with Wendy Carlos' appearance in  
16 videotaping. That is all we ever talked about at  
17 that time -- at either time actually.

18 Q. In either of her two sessions with  
19 Mr. Harlan, did Ms. Carlos play any music that  
20 you're aware of?

21 A. The second session, yes.

22 Q. Did she play any music that had been  
23 written for Clockwork Orange in that second  
24 session that you recall?

25 A. I think she did. I think she played

1 FRANKLIN

2 something that hadn't been used in the movie.

3 Q. Does the --

4 A. It was performed out of the computer  
5 actually.

6 Q. Does the Orange Minuet --

7 A. I think that is one of the -- it is in  
8 the complaint.

9 Q. She also played music that had been  
10 composed for The Shining, correct?

11 A. She played music that was related to  
12 The Shining, yes. Let's be careful about saying  
13 what it was done for.

14 Q. What distinction are you drawing when  
15 you say it is related to The Shining?

16 A. It is in the complaint.

17 Q. I am asking you. You corrected me and  
18 I would like to know what you meant.

19 A. Well, it is because -- you know, what  
20 is in the documentary speaks for itself but --  
21 excuse me. It wasn't in the documentary; that is  
22 the problem that got us here.

23 She did some music that had been part  
24 of a demo tape that was done for The Shining.

25 Q. Just so I am clear, in the taping

1 FRANKLIN

2 session with Mr. Harlan, Ms. Carlos played some  
3 music that had been part of the demo tape for The  
4 Shining? I am just making sure I understand your  
5 testimony.

6 A. Yes.

7 Q. I want to go back to, you said it  
8 wasn't in the documentary; that is the problem  
9 that got us here, or words to that effect.

10 MR. COHN: I don't think that is what  
11 she said. It was mumbled.

12 MS. BURROW: I can have it read back.

13 A. I will tell you what I meant. The  
14 second session didn't appear in the documentary.

15 Q. Why is that -- what did you mean when  
16 you said words to the effect of that is a problem?

17 A. Because it was used otherwise by Warner  
18 Brothers.

19 Q. That is Wendy Carlos Composer?

20 A. Yes.

21 Q. Staying on Life in Pictures for just a  
22 second, if you go to page 10 of your complaint,  
23 paragraph 36 B, you list a number of compositions  
24 that were composed, arranged or performed by Wendy  
25 Carlos for Clockwork Orange.

1 FRANKLIN

2 Q. Did you ever see Life in Pictures on  
3 HBO?

4 A. No.

5 Q. You didn't?

6 A. No.

7 Q. Do you know when it was released on HBO  
8 or when it was shown on HBO?

9 MR. COHN: You mean initially? It has  
10 been played more than once.

11 MS. BURROW: Yes.

12 Q. When Life in Pictures was initially  
13 shown on HBO.

14 A. I don't know.

15 Q. Do you know when Life in Pictures was  
16 originally released on home video?

17 A. I don't know.

18 Q. Do you know if it was in 2001?

19 A. I don't know.

20 Q. Do you know if it was prior to the 2007  
21 box set of Stanley Kubrick director series?

22 A. I believe it was, yes, but that is just  
23 from looking at information on Amazon which has  
24 dates on it.

25 Q. So Mr. Harlan came to your home on two

1 A C K N O W L E D G M E N T  
2

3 STATE OF )  
4 ) ss.:  
5 COUNTY OF )  
6

7 I, ANNEMARIE FRANKLIN, hereby  
8 certify that I have read the transcript of my  
9 testimony taken under oath in my deposition;  
10 that the transcript is a true, complete and  
11 correct record of my testimony, and that the  
12 answers on the record as given by me are true  
13 and correct.

14  
15  
16 ANNEMARIE FRANKLIN  
17

---

18 Signed and subscribed to before  
19 me, this day of ,  
20 \_\_\_.  
21

---

22 Notary Public, State of \_\_\_\_\_  
23  
24  
25

1 C E R T I F I C A T E  
2

3 STATE OF NEW YORK )

4 ss:

5 COUNTY OF NEW YORK )

6

7 I, BARBARA DRISCOLL, a Shorthand  
8 Reporter and a Notary Public within and for the  
9 State of New York, do hereby certify that the  
10 foregoing deposition of ANNEMARIE FRANKLIN was  
11 taken before me on the 16th day of September, 2009;

12 That the said witness was duly sworn  
13 before the commencement of her testimony; that the  
14 said testimony was taken stenographically by me and  
15 then transcribed.

16 I further certify that I am not related  
17 by blood or marriage to any of the parties to this  
18 action or interested directly or indirectly in the  
19 matter in controversy; nor am I in the employ of  
20 any of the counsel in this action.

21 IN WITNESS WHEREOF, I have hereunto set  
22 my hand this 29th day of September, 2009.

23  
24   
25 BARBARA DRISCOLL